

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. : 10/077,667  
Confirmation No. : 2996  
Appellant : Allon G. Englman  
  
Filed : February 15, 2002  
Title : Gaming Machine With Block Wagering  
TC/A.U. : 3714  
Examiner : Ryan Hsu  
  
Docket No. : 247079-000127USPT  
Customer No. : 70243

Mail Stop Appeal Brief – Patents (via EFS)  
Commissioner for Patents  
Alexandria, VA 22313-1450

**APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37**

Dear Commissioner:

This Appeal Brief relates to U.S. Serial No. 10/077,667 (U.S. Publication No. US 2003-0157978A1, attached as Exhibit A) and is filed pursuant to the Appellant's appeal to the Board of Patent Appeals and Interferences from the rejection of claims 1-7, 9-15, 17, 18, 25-31, 33, 35, 37-39 and 41-52 in the Final Office Action dated July 21, 2008 (Exhibit B). A Notice of Appeal was filed on November 21, 2008 (Exhibit C).

The due date for this Appeal Brief is two months from the Notice of Appeal filing date, which is January 21, 2008. This Appeal Brief is being submitted with a one-month extension of time and the corresponding extension fee.

## **I. REAL PARTY IN INTEREST**

The real party in interest is WMS Gaming Inc., having a place of business at 800 South Northpoint Boulevard, Waukegan, Illinois 60085.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board of Patent Appeals and Interferences in the present appeal.

## **III. STATUS OF CLAIMS**

Claims 1-7, 9-15, 17, 18, 25-31, 33, 35, 37-39 and 41-52 are currently pending in the above-referenced application and are the subject of the present appeal. No claims have been allowed.

## **IV. STATUS OF AMENDMENTS**

No further amendments have been submitted or entered subsequent to the filing of the Response to Final Office Action dated November 21, 2008.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The pending claims 1-7, 9-15, 17, 18, 25-31, 33, 35, 37-39 and 41-52 have four independent claims, claims 1, 25, 48 and 51. Independent claims 1, 25, 48 and 51 are directed to similar subject matter. In particular, the claimed invention focuses on a wagering game that combines a block-wagering feature and an accumulation feature with a reset function, as described in more detail below.

### Independent Claim 1

Focusing on the language of independent claim 1, the claimed invention is directed to a wagering game that is played on a gaming machine. The invention includes receiving a single wager from a player to purchase a series of plays of a basic portion of the game. Ex. A, ¶¶ 26, 29. The series of plays is a fixed number of plays of the wagering game, such that the single

wager is allocated to the entire series of plays and is not associated with any specific one of the series of plays. Ex. A, ¶ 29. The single wager is an amount paid by any player such that different players pay the same amount. Ex. A, ¶¶ 29, 30. In short, consistent with the Title of the present application (*i.e.*, “Gaming Machine With Block Wagering”), this single wager is a “block wager” in that it purchases a “block,” or series, of wagering games

In response to the player making this single wager, the player is provided with the series of plays of the basic portion of the wagering game. Ex. A, ¶ 29. The wagering game includes a plurality of outcomes that include a plurality of winning outcomes corresponding to first awards to be awarded to the player. Ex. A, ¶ 33. The plurality of winning outcomes includes different winning outcomes having corresponding different ones of the first awards. Ex. A, ¶ 33. The claimed invention includes randomly selecting at least one outcome for each play in the series of plays of the basic portion of the wagering game. Ex. A, ¶ 32. If the randomly selected outcome is one of the winning outcomes in any one of the plays, the player is provided with the first award corresponding to that randomly selected outcome. Ex. A, ¶¶ 33, 62.

The wagering game has an accumulation feature that permits a player to accumulate a game-play element during the series of plays of the basic portion of the wagering game that has been purchased with the block wager. Ex. A, ¶¶ 7, 24. The accumulated game-play element provides a second award to the player (*e.g.*, a bonus game) in response to a predetermined criterion being met, such as when a certain number of game-play elements have been achieved during the series of plays. Ex. A, ¶¶ 7, 24. The accumulation feature is reset to include no accumulated game-play elements prior to each purchased series of plays. Ex. A, ¶¶ 46, 62.

This “reset” aspect of the accumulation feature inhibits the “vulturing” effect, which is common in prior art wagering games having an accumulation feature. Ex. A, ¶¶ 5, 75. Specifically, in prior art accumulation features, there is no “reset” that occurs when a player

leaves the machine, such that the accumulation of certain events or symbols may gradually build up during the play of several players over a longer period of time. Thus, other persons often stand near the gaming machines that have nearly achieved the predetermined condition and begin to act like “vultures,” waiting for (or even pressuring) the initial players to leave the machine. Ex. A, ¶¶ 5, 75. The block wagering feature of the present invention in combination with the accumulation feature (which includes the “reset” aspect) overcomes this “vulturing” problem

Independent Claim 25

Independent claim 25 is similar to independent claim 1 except that it is an apparatus claim that uses three (3) means-plus-function claim elements pursuant to 35 U.S.C. §112, ¶6. The first means-plus-function claim element is the “receiving means” for receiving the single wager from the player. The structure associated with this claim element is the money / credit detector 16 that is illustrated in FIG. 2 and described in paragraph 26. Ex. A, FIG. 2, ¶26.

The second means-plus-function claim element in independent claim 25 is the “providing means” for providing the player with the series of plays of the wagering game. The structures associated with this claim element are the CPU 18 and the display 12, which displays the basic portion of the wagering game. Ex. A, FIGS. 1 & 3; ¶¶ 25 & 26 (“The primary display 12 is primarily associated with the basic wagering game” & “CPU 18 provides the player with the series of plays.”).

The third means-plus-function claim element in independent claim 25 is the “random-selection means” for randomly selecting at least one outcome from a plurality of outcomes for each play of the basic portion of the wagering game. The structures associated with this claim element include the CPU 18 and the random number generator, which conduct the random selections. Ex. A, ¶¶ 26 & 32.

Independent claim 25 also focuses on the bonus game relative to the accumulation feature. If the predetermined criteria is met for the accumulated element (e.g., a certain number of elements are achieved), the player advances to play a bonus game before completing the series of plays of the basic portion of wagering game. Ex. A, ¶¶ 7, 24. And, after completion of the bonus game, the player returns to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed. Ex. A, ¶¶ 46.

One example of such a game is set forth in the Second-Screen Bonus Game in paragraphs 42-48. Ex. A, ¶¶ 42-48. In addition to winning symbol combinations providing credit awards to the player, Farmer Head symbols are accumulated by the player in the slot machine game of FIG. 3 (FIG. 3 is the primary display 12) during the series of plays. Ex. A, ¶ 42. Those Farmer Head symbols are collected in the accumulation meter 82 of FIG. 4 (FIG. 4 is the secondary display 13). Once five Farmer Head symbols are achieved, the player is permitted to play the Second Screen Bonus Game, which is a player-selection type of bonus game shown in FIG. 11. Ex. A, ¶¶ 42-43. After playing the Second Screen Bonus Game, the player returns to the basic game and continues the series of plays that that he or she has remaining. Ex. A, ¶ 46.

#### Independent Claim 48

Independent claim 48 is similar to independent claim 1 with a few differences. It uses different language to describe the fact that the wagering game has multiple winning symbol combinations that can be awarded to the player (“a first basic-game award” and “a second basic-game award”). Ex. A, ¶ 33.

#### Independent Claim 51

Independent claim 51 is also similar to independent claims 1 and 25. If predetermined criteria are met for the accumulated element, such as a certain number being achieved, the player

advances to play a bonus game before completing the series of plays of the basic portion of wagering game. Ex. A, ¶¶ 7, 24. And, after completion of the bonus game, the player returns to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed. Ex. A, ¶ 46. One example of such a game is set forth in the Second-Screen Bonus Game. Ex. A, ¶¶ 42-48. Once a certain number of Farmer Head symbols is achieved, the player is permitted to play the Second Screen Bonus Game, which is a player-selection type of game shown in FIG. 11. Ex. A, ¶¶ 42-43. After playing the Second Screen Bonus Game, the player returns to the basic game and continues the series of plays that that he or she has remaining. Ex. A, ¶ 46.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

- A. Whether claims 1-7, 9-15, 17, 18, and 43-47 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,857,958 (“Osawa”) and further in view of U.S. Patent No. 5,851,010 (“Feinberg”).
- B. Whether claims 25-31, 33, 35, 37-39, and 41-42 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Osawa and Feinberg.
- C. Whether claims 48-50 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Osawa and Feinberg.
- D. Whether claims 51-52 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Osawa and Feinberg.

## **VII. ARGUMENT**

The Appellant would first like to address in Section A the rejections under 35 U.S.C. §103(a) in connection with independent claim 1. The Appellant will then address in Section B

the rejections under 35 U.S.C. §103(a) in connection with independent claim 25. Then, the prior art rejections of independent claim 48 will be addressed in Section C and the prior art rejections of independent claim 51 will be addressed in Section D.

It should be noted that some of the arguments set forth in Section A will also apply to Sections B, C, and D. While those arguments will still be highlighted in Sections B, C, and D, they will not be repeated in their entirety in Sections B, C, and D for the purpose of brevity.

#### **A. The Proposed Combination Cannot Render Independent Claim 1 Obvious**

There are several different bases for finding that independent claim 1 is patentable over Osawa and Feinberg. Appellant respectfully requests that the current claim rejections be reversed in light of these arguments.

##### **1. Osawa Does Not Teach the Claim Elements Related to the “Reset” Feature in the Independent Claim 1**

Claim 1 requires that “the accumulation feature is *reset* to include no accumulated game-play elements prior to *each* purchased series of plays.” The Office Action cites to Osawa at Col. 11, line 47 to Col. 12, line 47 for this feature. Ex. B, p. 3. However, this element is not taught in Osawa.

Recognizing that prior art systems fail to maintain player interest in a game, Osawa wants to encourage a player to stay at the gaming machine and continue wagering on the primary game. Ex. D, Col. 1, line 45. Osawa does so by providing a secondary award in response to elements from the primary game being accumulated and displayed to the player. Ex. D, FIGS. 6-13. To the extent the player accumulates a certain amount of elements, the player is awarded the secondary award.

One major difference between the claimed invention and Osawa's teaching relates to the resetting function associated with the accumulation feature. In the claimed invention, the reset function occurs "prior to *each* purchased series of plays." (i.e., before the player purchases the series of plays). Quite to the contrary, the reset function in Osawa occurs after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Here, Osawa describes resetting one single area in response to the predetermined condition being satisfied (i.e., a win) or resetting all of the display areas in response to the predetermined condition being satisfied. *Id.*

Osawa's FIG. 5 further illustrates the process of having the player insert a coin and play the game. Ex. D. In FIG. 5, the reset of the accumulation feature *only* occurs when the secondary award has been achieved (by achieving a certain predetermined condition) and the player is awarded a payout, as is shown in steps ST12 and ST13. *There is absolutely no resetting of the accumulation feature prior to the insertion of the coin at step ST1 in FIG. 5.*

Appellant notes that, when attempting to find this claim element in Osawa, the Final Office Action states:

Furthermore, Osawa's accumulation feature provides the player with a second award to a player in response to a predetermined condition being met, *the accumulation feature is reset to include no game play accumulated elements at the start of a player entering into the game.*

Ex. B, p. 3. The Appellant respectfully suggests that the highlighted portion of this quotation is an inaccurate reading of Osawa. As described above, Osawa resets after a player has achieved a certain secondary award -- not "at the start of a player entering into the game" as suggested in the Office Action. As such, Osawa does not teach at least one element of independent claim 1 -- "the accumulation feature is *reset* to include no accumulated game-play elements prior to *each* purchased series of plays."

2. Osawa is the *Exact* Prior Art that Appellant Described in the Background Section of the Present Application, And Osawa Contains the “Vulturing” Problems That Appellants Sought To Avoid

The Appellant respectfully requests that the Board consider the following point because it helps to establish the Appellant's frame of mind (and the skilled artisan's frame of mind) at the time of the claimed invention. The Appellant was well aware of other prior art accumulation features when the present invention was developed. The Appellant described several prior art wagering games that included an accumulation feature in the Background Section of the present specification. Ex. A, ¶ 4. The Appellant further noted the problems associated with the prior art wagering games having such an accumulation feature. Ex. A, ¶ 5. One of these problems is the concept of the “vulturing” effect, which occurs when a player has nearly achieved a predetermined condition in an accumulation feature, but must walk away from the gaming machine for a variety of reasons (e.g., to eat, to use the restroom, lack of money, etc.). Other players near the gaming machine that has nearly achieved the predetermined condition begin to act like “vultures,” waiting for (or even pressuring) the initial player to leave the machine.

*Osawa teaches the EXACT prior art accumulation feature that the Appellant discussed in the Background Section at paragraph 4 & 5 and that the Appellant sought to avoid when developing the current invention.* Because Osawa only resets the accumulation feature in response to a player achieving a predetermined condition in the accumulation feature, a player of Osawa's game will be encumbered by the “vulturing” effect that the Appellant described in the Background Section. Osawa *never* identified these problems of the accumulation feature and, therefore, cannot teach the solution that has been claimed by the Appellant. The Appellant's block-wagering feature and accumulation feature with the reset function that are set forth in independent claim 1 solve the problems related to the “vulturing” effects.

### 3. Feinberg and Osawa Teach Away from Their Combination

There are at least two reasons why Feinberg and Osawa teach away from their combination. The first reason focuses on Feinberg's *stated objective* for a simplistic game format that was easy to use and fair for all players, including novice players. The second reason focuses on Osawa's desire to avoid simple "monotonous" wagering games. Each reason will be discussed.

Regarding the first reason, Feinberg is directed to a simple table game in which the randomly selected event is either a first outcome or a second outcome. Ex. E, Col. 1, lines 4-9. Feinberg does so to even out the odds of the table game between the casino and the player, such that even "novice players" are not "quickly fleeced of their money without receiving any entertainment value often resulting in a lack of repeat customers at casinos." Ex. E, Col. 1, lines 16-19.

The first outcome and second outcome provide a very simple way for the player to determine whether he or she has won. Examples of simple game formats having only a first outcome or a second outcome are provided in Col. 2, lines 38-50, and include:

- one or two dice in which the first outcome can be odd numbers and the second outcome can be even numbers such that there is an even probability of getting an odd number or an even number;
- a deck of cards which are broken into odd and even numbers by designating the jack and king odd (the ace can be used, in which case odd cards would outnumber even 7 to 6 or can be designated a no play card);
- a deck of cards in which the first outcome is represented by red cards, and the second outcome is represented by black cards;
- a coin to be flipped, in which the first outcome is a first side of the coin and the second outcome is the second side of the coin.

Ex. E. Col 2, lines 38-50. In essence, each randomly selected outcome is "you win" or "you lose." Feinberg's game is that simple.

Feinberg describes the manner in which the game is played from the bottom of Column 2 into the top of Column 3. In essence, the player pays an initial “fixed cost” to enter the game and receives a certain “number of decisions.” The player’s goal is to correctly select between the first outcome or the second outcome in each of the “decisions.” During the course of play, the number of the player’s correct selections is tracked. Ex. E, Col. 3, lines 48-54. After the purchased number of decisions has been completed, the player is awarded a payout in accordance with the number of the player’s correct selections.

After distinguishing more complicated games like blackjack, craps, roulette, baccarat, and *slot machine* games (all of which have a plurality of winning outcomes with different payouts) at Column 1, lines 12-24, Feinberg concludes with an additional reason as to why it would desirable to have a *simple* table game in which it is easy for the player to determine a win or a loss.

It would also be desirable to provide the possibility of obtaining a large value jackpot for a relatively small opportunity cost in which the player is able to make a decision regarding a number of gaming plays *using a relatively simple gaming format*, which provides the opportunity to wager on a series of plays at a discounted rate.

Ex E, Col. 1, lines 30-34 (emphasis added). As mentioned above, another of Feinberg’s reasons for this simplistic game is a concern for “novice players” who often get “quickly fleeced of their money” at these more complicated games. Ex. E. Col. 1, lines 16-20.

According to the Final Office Action, Feinberg’s explicitly recited desire for simplicity in the wagering game is *irrelevant* to the obviousness rejection of the instant claimed invention. Ex. B, p. 8. The Appellant respectfully disagrees.

Osawa’s wagering game is one that Feinberg would surely consider complex -- the exact type of games that Feinberg was attempting to avoid. Feinberg even *specifically* discusses the problems of common wagering games, such as blackjack, craps, Roulette, baccarat, and slot

machines. See Ex. E, Col. 1, lines 10-25. Without question, Feinberg's desire for a "relatively simple gaming format" (col. 1, lines 30-34) in which the outcome is either "you win" or "you lose" is the *antithesis* of Osawa's "slot machine" and "video poker" wagering games (Ex. D, Col. 1, lines 7-8) that include *multiple* types of symbol combinations, *multiple* types of winning outcomes, *multiple* types of awards, and "secondary games." Ex. D, Col. 1, lines 14-24; FIGS. 9 & 19. *Osawa was teaching exactly what Feinberg explicitly instructed the skilled artisan to avoid.*

In short, Feinberg's wagering feature for his "relatively simple gaming format" *cannot* be excised from Feinberg's wagering system and be added to Osawa without regard to Feinberg's overall teaching and Osawa's overall teaching. Adding pieces of the prior art together in a piecemeal fashion, without regard to their entire teachings, is an inappropriate analytical framework for determining obviousness. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983); MPEP § 2145 X(D)(2). See MPEP § 2143.01 (proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference).

To understand the second reason why Osawa and Feinberg teach away from their proposed combination, one must view the obviousness analysis from the other direction. Osawa was trying to avoid the "monotonous" game formats of simple prior art games like Feinberg. Osawa notes the following about certain prior art games:

However, because a result (i.e., win or loss) of the game is determined by an internal procedure of the gaming machine, the skill of the player is not reflected in the game result and *the game itself becomes monotonous. As the result, there is a problem that the player tends to tire and loses interest in playing another game.*

Ex. D, Col. 1, lines 42-47. Feinberg's game in which there is simply a "you win" or "you lose" outcome is one game that Osawa would have surely considered to be "monotonous." Osawa was avoiding these simplistic games (like Feinberg's games) to arrive at what Osawa considered to be a more interesting game – one that would provide substantial interest to the player to maintain a high level of coin input at the gaming machine (albeit much more complex than Feinberg's game). The skilled artisan, after reading Osawa, would have discarded Feinberg as being one of a genre of "simple" wagering games that Osawa was avoiding.

Consequently, the Appellant also suggests that the skilled artisan, after reading *all* of Feinberg and Osawa, would *not* choose to add aspects of Feinberg's simple wagering game to Osawa because Feinberg's simplistic wagering game was something that Osawa would have deemed to be too basic and "monotonous."

In summary, there are two countervailing themes prevalent in the proposed combination of references. Feinberg's theme is to help new players by "*using a relatively simple gaming format*" and to avoid well-known complex games like blackjack, craps, Roulette, baccarat, and slot machines. On the other hand, Osawa's theme is to enhance player interest and increase coin input by avoiding simplistic "monotonous" games, and instead providing more complex games with *multiple* types of symbol combinations, *multiple* types of winning outcomes, *multiple* types of awards, and "secondary games."

4. The Stated Reasoning for Combining Fienberg with Osawa Lacks a "Rational Underpinning".

Last, but surely not least, the Appellant believes that the reason for combining Feinberg and Osawa lacks a "rational underpinning." *KSR International Co. v. Teleflex Inc.*, 78 USPQ2d 1329, 1396 (2007) (there must be some articulated reasoning with some rational underpinning to

support the legal conclusion of obviousness.) In the Final Office Action, the motivation for making this combination is described in the following three sentences:

Feinberg teaches that one would be motivated to incorporate the wagering system of purchasing a series of plays for a single wager in order to encourage new players to play a wagering game more times and have the ability to assess and ascertain the maximum loss that he/she would have to risk. Therefore one would have been motivated to incorporate the wagering system of Feinberg in order to promote the play of a wagering game at the time the invention was made. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Feinberg with that of Osawa in order to provide an *alternative wagering system* that allowed a player to purchase a series of games for a single wager with that of these accumulation game of Osawa.

Ex. B, p. 4. In short, the proposed modification is to “swap” Osawa’s wagering system with Feinberg’s wagering system so that Osawa would then have an “alternative wagering system.” The Appellant believes that the reason for this proposed incorporation of the “alternative wagering system” into Osawa lacks a rational underpinning.

Osawa attempts to increase player interest and the inherent additional coin-input associated with player interest. Osawa does so by Osawa’s specific type of accumulation game in which the state of the accumulation feature is displayed to the player and the accumulation feature is reset after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-

18. Osawa summarizes his wagering game as follows:

As described above, the secondary game played on the secondary display screen is separate from the variable display that displays the principal game, but is related to the result of the principal game, *thereby enhancing the player's interest in continuing to play the entire game*. The secondary game on the secondary display screen proceeds while indicating histories of the (winning) states displayed in the past by the variable display. Therefore, the player can know whether the completion of the secondary game is near or not. Also, it is easy for the player to know at glance what kind of (winning) pattern has to be displayed in the principal game for completion of the secondary game *so that the player may play the game with high interest and expectation*. The player can endeavor to win the principal game by paying attention to the progress of

the secondary game, thereby greatly elevating the player's interest in the game.

Ex. D, Col. 15, lines 1-13. (emphasis added).

Osawa's FIG. 5 illustrates the process of having the player insert a coin at ST1 and play the game at ST2 and ST3. Ex. D. In FIG. 5, the reset of the accumulation feature *only* occurs when the secondary award has been achieved (by achieving a certain predetermined condition) and the player is awarded a payout, as is shown in steps ST12 and ST13.

Notably, there is no resetting of the accumulation feature prior to the insertion of the coin at step ST1 in FIG. 5 and for good reason. In accordance with Osawa's objective, Osawa wants the player to feel that he or she is getting closer to achieving the secondary award based on the displayed current state of the accumulation feature. As such, the player is compelled to keep playing the game and, thus, inputting more coins as he or she gets closer and closer to achieving the secondary award. Thus, it is the displayed state of the secondary award that causes Osawa's players to be interested and continue inputting coin to the machine. In short, Osawa's "wagering system" in which player keeps placing additional wagers over and over because they feel they are getting closer and closer to that secondary award is *intertwined* with Osawa's accumulation feature that displays the state of that secondary award.

Why, then, does it make sense to remove Osawa's wagering system and replace it with an "alternative wagering system" (as proposed by the Final Office Action) that is focused on the player placing a *single* wager for a series of games? Feinberg's *single* wager system would completely destroy Osawa's logic for displaying the state of the accumulation feature, which is for the purpose of enticing the player to continue playing wagers over and over. See also MPEP 2143.01 (the proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference).

As such, Appellant respectfully suggests that the Final Office Action's reasoning to remove Osawa's wagering system and replace it with Feinberg's "alternative wagering system" lacks a rational underpinning. Hence, this reasoning should not be used as the basis for combining Feinberg with Osawa.

**B. The Proposed Combination Cannot Render Independent Claim 25 Obvious**

Independent claim 25 is similar to independent claim 1. Many of the reasons set forth above with regard to independent claim 1 also apply to independent claim 25, and will be highlighted in Section B.

**1. Osawa Does Not Teach the Claim Elements Related to the "Reset" Feature in the Independent Claim 25**

Claim 25 requires that "the accumulation feature is *reset* to include no accumulated game-play elements prior to *each* purchased series of plays." The Office Action cites to Osawa at Col. 11, line 47 to Col. 12, line 47 for this feature. Ex. B, p. 3.

However, for the reasons set forth above with regard to independent claim 1, this element in claim 25 is not taught in Osawa. Summarizing those arguments, the reset function in Osawa occurs after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Osawa's FIG. 5 illustrates the process of having the player insert a coin and play the game. Ex. D. In FIG. 5, the reset of the accumulation feature *only* occurs when the secondary award has been achieved (by achieving a certain predetermined condition) and the player is awarded a payout, as is shown in steps ST12 and ST13. There is absolutely *no* resetting of the accumulation feature prior to the insertion of the coin at step ST1 in FIG. 5.

For this reason alone, claim 25 is allowable over the proposed combination of Osawa and Feinberg.

2. Feinberg and Osawa Teach Away from Their Combination That Has Been Used to Reject Independent Claim 25

Appellant notes that independent claim 25 and independent claim 1 were grouped together for the purpose of rejecting the claims such the Final Office Action. Ex. B, pp. 2-4. As set forth above in Sections A(3), Appellant believes there are at least two reasons why Feinberg and Osawa teach away from their combination. Those reasons will be summarized, but not detailed in full for the purpose of brevity.

First, Feinberg's *stated objective* a simplistic game format that was easy to use and fair for all players, including novice players. In essence, each randomly selected outcome in Feinberg's game is "you win" or "you lose." Feinberg's desire for a "relatively simple gaming format" (col. 1, lines 30-34) in which the outcome is either "you win" or "you lose" is the *antithesis* of Osawa's "slot machine" and "video poker" wagering games (Ex. D, Col. 1, lines 7-8) in which there are *multiple* types of symbol combinations, *multiple* types of winning outcomes, *multiple* types of awards, and "secondary games." Ex. D, Col. 1, lines 14-24; FIGS. 9 & 19. *Osawa is the exact type of game that Feinberg was explicitly avoiding.* In short, Feinberg's wagering feature for his "relatively simple gaming format" *cannot* be excised from Feinberg's wagering system and be added to Osawa without regard to Feinberg's overall teaching.

Second, viewing the obviousness analysis from the other direction, Osawa was trying to avoid the simplistic "monotonous" game format of prior art games like Feinberg. Ex. D, Col. 1, lines 44-45. So, Osawa wanted to create a more interesting game – one that would enhance interest to the player to maintain a high level of coin input at the gaming machine (albeit more complex). The skilled artisan, after reading Osawa, would have never looked to Feinberg's genre of simple "you win" or "you lose" wagering games to modify Osawa because Feinberg's simplistic "monotonous" game format was what Osawa sought to avoid.

Consequently, the Appellant suggests that the skilled artisan, after reading *all* of Feinberg and Osawa, would *not* choose to add aspects of Feinberg's simple wagering game to Osawa's more complex wagering game because of these two countervailing themes. Again, the more detailed analysis of this argument is set forth above in Section A(3).

3. The Stated Reasoning for Combining Fienberg with Osawa to Reject Claim 25 Lacks a "Rational Underpinning"

Appellant again notes that independent claim 25 and independent claim 1 were grouped together for the purpose of rejecting the claims in the Final Office Action. Ex. B, pp. 2-4. As discussed in detail above with respect to claim 1, the Appellant believes that the reason for combining Feinberg and Osawa lacks a "rational underpinning." *KSR International Co. v. Teleflex Inc.*, 78 USPQ2d 1329, 1396 (2007) (there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.) In the Final Office Action, the proposed modification is to "swap" Osawa's wagering system with Feinberg's wagering system so that Osawa would then have an "alternative wagering system." Ex. B, p. 4. The Appellant believes that the reason for the modification to use the "alternative wagering system" in Osawa lacks a rational underpinning.

Osawa attempts to increase player interest and the inherent additional coin-input associated with player interest by Osawa's specific type of accumulation game in which the state of the accumulation feature is displayed to the player and the accumulation elements are reset only after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Thus, it does not make sense to remove Osawa's wagering system and replace it with an "alternative wagering system" (as proposed by the Final Office Action) that is focused on the player placing a *single* wager for a series of games. This would destroy Osawa's logic for displaying the state of the accumulation feature, which is for the purpose of enticing the player to continue playing the game, and placing additional wagers.

Again, the detailed basis for this argument is set forth above within Section A(4)

4. Osawa and Feinberg Fail to Disclose The Claim Elements Related to the “Bonus Game” Associated with the Accumulation Feature in Claim 25

Unlike claim 1, independent claim 25 also includes claim elements related to the bonus game that are not disclosed in Osawa or Feinberg. Claim 25 permits the player to play the bonus game after a predetermined criterion has been met in the accumulation feature. Furthermore, after completion of the bonus game, the player then returns to the basic game and continues using the same single wager that the player initially used to play the basic game. In particular, claim 25 states that the accumulation feature is:

- “permitting the player to play a bonus game before completing the series of plays of the basic portion of the wagering game in response to an accumulation of a predetermined number of accumulated elements”
- “returning to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed”

There is absolutely no bonus game (or secondary game) that can be “played” in Osawa. Rather, it is simply an additional secondary award. Furthermore, in Osawa, there is no “returning” to the basic portion of the game that permits a player to play the basic game with the same *single wager* that the player previously used to start the basic game. The flow chart in Osawa’s FIG. 5 proves that this is true.

This is yet another reason why independent claims 25 is allowable over proposed combination.

### C. The Proposed Combination Cannot Render Independent Claim 48 Obvious

Independent claim 48 is similar to independent claim 1. Many of the reasons set forth above with regard to independent claim 1 also apply to independent claim 48 and will be highlighted in this Section C.

#### 1. Osawa Does Not Teach the Claim Elements Related to the “Reset” Feature in the Independent Claim 48

Claim 48 requires “resetting the accumulation feature to include no accumulated game-play elements prior to the *next* purchased series of plays.” The Office Action cites to Osawa at Col. 11, line 47 to Col. 12, line 47 for this feature. Ex. B, p. 3.

While the wording in claim 48 is slightly different from claim 1, for the reasons set forth above with regard to independent claim 1, this element in claim 48 is not taught in Osawa. Summarizing those arguments, the reset function in Osawa occurs after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Osawa’s FIG. 5 illustrates the process of having the player insert a coin and play the game. Ex. D. In FIG. 5, the reset of the accumulation feature *only* occurs when the secondary award has been achieved (by achieving a certain predetermined condition) and the player is awarded a payout, as is shown in steps ST12 and ST13. There is absolutely *no* resetting of the accumulation feature prior to the insertion of the coin at step ST1 in FIG. 5.

For this reason alone, claim 48 is allowable over the proposed combination of Osawa and Feinberg.

#### 2. Feinberg and Osawa Teach Away from Their Combination That Has Been Used to Reject Independent Claim 48

Appellant notes that independent claim 48 and independent claim 1 were grouped together for the purpose of rejecting the claims such the Final Office Action. Ex. B, pp. 2-4. As

set forth above in Sections A(3), Appellant believes there are at least two reasons why Feinberg and Osawa teach away from their combination. Those reasons will be summarized, but not detailed in full for the purpose of brevity.

First, Feinberg's *stated objective* a simplistic game format that was easy to use and fair for all players, including novice players. Each randomly selected outcome in Feinberg's game is "you win" or "you lose." Feinberg's desire for a "relatively simple gaming format" (col. 1, lines 30-34) in which the outcome is either "you win" or "you lose" is the *antithesis* of Osawa's "slot machine" and "video poker" wagering games (Ex. D, Col. 1, lines 7-8) in which there are *multiple* types of symbol combinations, *multiple* types of winning outcomes, *multiple* types of awards, and "secondary games." Ex. D, Col. 1, lines 14-24; FIGS. 9 & 19. *Osawa is the exact type of game that Feinberg was explicitly avoiding.*

Second, viewing the obviousness analysis from the other direction, Osawa was trying to avoid the simplistic "monotonous" game format of prior art games like Feinberg. Ex. D, Col. 1, lines 44-45. So, Osawa wanted to create a more interesting game – one that would enhance interest to the player to maintain a high level of coin input at the gaming machine (albeit more complex). The skilled artisan, after reading Osawa, would have never looked to Feinberg's genre of simple "you win" or "you lose" wagering game to modify Osawa because Feinberg's simplistic "monotonous" game format was what Osawa sought to avoid.

Consequently, the Appellant suggests that the skilled artisan, after reading *all* of Feinberg and Osawa, would *not* choose to add aspects of Feinberg's simple wagering game to Osawa's more complex wagering game because of these two countervailing themes. Again, the more detailed analysis of this argument is set forth above in Section A(3).

3. The Stated Reasoning for Combining Fienberg with Osawa to Reject  
Claim 48 Lacks a “Rational Underpinning”.

Appellant again notes that independent claim 48 and independent claim 1 were grouped together for the purpose of rejecting the claims such the Final Office Action. Ex. B, pp. 2-4. As discussed in detail above with respect to claim 1, the Appellant believes that the reason for combining Feinberg and Osawa lacks a “rational underpinning.” *KSR International Co. v. Teleflex Inc.*, 78 USPQ2d 1329, 1396 (2007) (there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.) In the Final Office Action, the proposed modification is to “swap” Osawa’s wagering system with Feinberg’s wagering system so that Osawa would then have an “alternative wagering system.” Ex. B, p. 4. The Appellant believes that the reason for the modification to use the “alternative wagering system” in Osawa lacks a rational underpinning.

Osawa attempts to increase player interest and the inherent additional coin-input associated with player interest by Osawa’s specific type of accumulation game in which the state of the accumulation feature is displayed to the player and the accumulation elements are reset only after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Thus, it does not make sense to remove Osawa’s wagering system and replace it with an “alternative wagering system” (as proposed by the Final Office Action) that is focused on the player placing a *single* wager for a series of games. This would destroy Osawa’s logic for displaying the state of the accumulation feature, which is for the purpose of enticing the player to continue playing the game, and placing additional wagers.

Again, the detailed argument for arriving at the conclusion that the stated motivation used to reject claim 48 lacks a “rational underpinning” is set forth above within Section A(4)

#### **D. The Proposed Combination Cannot Render Independent Claim 51 Obvious**

Independent claim 51 is similar to independent claim 1. Many of the reasons set forth above with regard to independent claim 1 also apply to independent claim 51, and will be highlighted in this Section D.

##### **1. Osawa Does Not Teach the Claim Elements Related to the “Reset” Feature in the Independent Claim 51**

Claim 51 requires “resetting the accumulation feature to include no accumulated game-play elements prior to the *next* purchased series of plays.” The Office Action cites to Osawa at Col. 11, line 47 to Col. 12, line 47 for this feature. Ex. B, p. 3.

While the wording in claim 51 is slightly different from claim 1, for the reasons set forth above with regard to independent claim 1, the reset function in Osawa occurs after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Osawa’s FIG. 5 illustrates the process of having the player insert a coin and play the game. Ex. D. In FIG. 5, the reset of the accumulation feature *only* occurs when the secondary award has been achieved (by achieving a certain predetermined condition) and the player is awarded a payout, as is shown in steps ST12 and ST13. There is absolutely *no* resetting of the accumulation feature prior to the insertion of the coin at step ST1 in FIG. 5.

For this reason alone, claim 51 is allowable over the proposed combination of Osawa and Feinberg.

##### **2. Feinberg and Osawa Teach Away from Their Combination That Has Been Used to Reject Independent Claim 51**

Appellant notes that independent claim 51 and independent claim 1 were grouped together for the purpose of rejecting the claims such the Final Office Action. Ex. B, pp. 2-4. As set forth above in Sections A(3), Appellant believes there are at least two reasons why Feinberg

and Osawa teach away from their combination. Those reasons will be summarized, but not detailed in full for the purpose of brevity.

First, Feinberg's *stated objective* a simplistic game format that was easy to use and fair for all players, including novice players. Each randomly selected outcome in Feinberg's game is "you win" or "you lose." Feinberg's desire for a "relatively simple gaming format" (col. 1, lines 30-34) in which the outcome is either "you win" or "you lose" is the *antithesis* of Osawa's "slot machine" and "video poker" wagering games (Ex. D, Col. 1, lines 7-8) in which there are *multiple* types of symbol combinations, *multiple* types of winning outcomes, *multiple* types of awards, and "secondary games." Ex. D, Col. 1, lines 14-24; FIGS. 9 & 19. *Osawa was the exact type of game that Feinberg was explicitly avoiding.* In short, Feinberg's wagering feature for his "relatively simple gaming format" *cannot* be excised from Feinberg's wagering system and be added to Osawa without regard to Feinberg's overall teaching.

Second, viewing the obviousness analysis from the other direction, Osawa was trying to avoid the simplistic "monotonous" game format of prior art games like Feinberg. Ex. D, Col. 1, lines 44-45. So, Osawa wanted to create a more interesting game – one that would enhance interest to the player to maintain a high level of coin input at the gaming machine (albeit more complex). The skilled artisan, after reading Osawa, would have never looked to Feinberg's genre of simple "you win" or "you lose" wagering game to modify Osawa because Feinberg's simplistic "monotonous" game format was what Osawa sought to avoid.

Consequently, the Appellant suggests that the skilled artisan, after reading *all* of Feinberg and Osawa, would *not* choose to add aspects of Feinberg's simple wagering game to Osawa's more complex wagering game because of these two countervailing themes. Again, the more detailed analysis of this argument is set forth above in Section A(3).

3. The Stated Reasoning for Combining Fienberg with Osawa to Reject  
Claim 51 Lacks a “Rational Underpinning”

Appellant again notes that independent claim 51 and independent claim 1 were grouped together for the purpose of rejecting the claims such the Final Office Action. Ex. B, pp. 2-4. As discussed in detail above with respect to claim 1, the Appellant believes that the reason for combining Feinberg and Osawa lacks a “rational underpinning.” *KSR International Co. v. Teleflex Inc.*, 78 USPQ2d 1329, 1396 (2007) (there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.) In the Final Office Action, the proposed modification is to “swap” Osawa’s wagering system with Feinberg’s wagering system so that Osawa would then have an “alternative wagering system.” Ex. B, p. 4. The Appellant believes that the reason for the modification to use the “alternative wagering system” in Osawa lacks a rational underpinning.

Osawa attempts to increase player interest and the inherent additional coin-input associated with player interest by Osawa’s specific type of accumulation game in which the state of the accumulation feature is displayed to the player and the accumulation elements are reset only after the accumulated feature reaches a certain threshold. Ex. D, Col. 4, lines 6-18. Thus, it does not make sense to remove Osawa’s wagering system and replace it with an “alternative wagering system” (as proposed by the Final Office Action) that is focused on the player placing a *single* wager for a series of games. This would destroy Osawa’s logic for displaying the state of the accumulation feature, which is for the purpose of enticing the player to continue playing the game, and placing additional wagers.

The detailed basis for this argument is set forth above within Section A(4)

4. Osawa Does Not Teach the Element of Independent Claim 51 Regarding the “Playing” of the Bonus Game and “Returning” to the Basic Game

Unlike claim 1, independent claim 51 has additional claim elements related to the bonus game and the accumulation feature. Specifically, independent claim 51 permits the player to play the bonus game after a predetermined criterion has been met in the accumulation feature. Furthermore, after completion of the bonus game, the player then returns to the basic game and continues using the same single wager that the player initially used to play the basic game. In particular, claim 51 requires the following:

- “before completing the series of plays of the basic portion of wagering game, permitting the player to play a bonus game in response to a predetermined criterion being met for the accumulated element;
- after completion of the bonus game, returning to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed;”

There is absolutely no bonus game (or secondary game) that can be “played” in Osawa. Rather, it is simply an additional award. Furthermore, as discussed above, in Osawa, there is no returning to the basic portion of the game that permits a player to play the basic game with the same single wager that the player previously used to start the basic game. Osawa’s FIG. 5 proves that this is true.

The Appellant notes that the Final Office Action fails to address these important claim elements in claim 51. The concepts of “playing” a bonus game, “completing” the bonus game, and “returning” to the basic portion of the game for continuing the play with the single wager are simply not addressed in the Final Office Action. Accordingly, a *prima facie* case of obviousness has not been established with regard to independent claim 51 and its dependent claims for this reason as well.

### **VIII. CLAIMS APPENDIX**

A clean copy of the claims 1-7, 9-15, 17, 18, 25-31, 33, 35, 37-39 and 41-52 involved in this appeal is included in the Claims Appendix.

### **IX. EVIDENCE APPENDIX**

A copy of the evidence relied upon by the appellant is included in the Evidence Appendix. A list of evidence and where each was entered in the record is included in the Index to the Appendices.

### **X. RELATED PROCEEDINGS APPENDIX**

As there are no related proceedings, no information is provided in the Related Proceedings Appendix.

### **XI. CONCLUSION**

For at least the foregoing reasons, the final rejection of appealed claims 1-7, 9-15, 17, 18, 25-31, 33, 35, 37-39 and 41-52 set forth in the Final Office Action mailed July 21, 2008, should be reversed.

Respectfully submitted,

Date: February 23, 2009

By: /Daniel J. Burnham/  
Daniel J. Burnham  
Reg. No. 39,618  
NIXON PEABODY LLP  
161 N. Clark Street, 48<sup>th</sup> Floor  
Chicago, IL 60601  
(312) 425-3900  
Attorney for Appellant

## INDEX TO THE APPENDICES

### SUBJECT

### EXHIBIT

#### **CLAIM APPENDIX**

#### **EVIDENCE APPENDIX**

#### **LIST OF EVIDENCE**

U.S. Publication No. US 2003-0157978A1	A
Final Office Action dated July 21, 2008	B
Notice of Appeal filed November 21, 2008	C
U.S. Patent No. 6,857,958	D
U.S. Patent No. 5,851,010	E

#### **RELATED PROCEEDINGS APPENDIX**

## CLAIMS APPENDIX

### CLEAN COPY OF CLAIMS ON APPEAL

1. A method of conducting a wagering game on a gaming machine, the method comprising:
  - receiving a single wager from a player to purchase a series of plays of a basic portion of the game, the series of plays comprising a fixed number of plays of the wagering game, the single wager being allocated to the entire series of plays and not being associated with any specific one of the series of plays, the single wager being an amount made by any player such that different players pay the same amount;
  - in response to the single wager, providing the player with the series of plays of the basic portion of the wagering game, the wagering game including a plurality of outcomes, the plurality of outcomes including a plurality of winning outcomes corresponding to first awards to be awarded to the player, the plurality of winning outcomes including different winning outcomes having corresponding different ones of the first awards;
  - randomly selecting at least one outcome from the plurality of outcomes for each play in the series of plays of the basic portion of the wagering game;
  - in response to the randomly selected outcome being one of the plurality of different winning outcomes in any one of the plays, providing the player with the first award corresponding to the randomly selected outcome; and
  - providing an accumulation feature that accumulates a game-play element of the game over a plurality of the plays in the series of plays of the basic portion of the wagering game, the accumulated game-play element providing a second award to the player in response to a predetermined criterion being met, the accumulation feature is reset to include no accumulated game-play elements prior to each purchased series of plays.
2. The method of claim 1, wherein the basic portion is selected from a group consisting of slots, poker, keno, bingo, blackjack, and roulette.
3. The method of claim 2, wherein the accumulation feature is triggered by a special outcome in the basic portion.
4. The method of claim 1, wherein the accumulated element is represented by a position on a trail, ladder, or meter.

5. The method of claim 4, wherein the position identifies a credit amount, a multiplier, a number of free plays of the basic portion, a bonus round, or movement to another position on the trail, the ladder, or the meter.

6. The method of claim 1, wherein the accumulated game-play element is a collected object.

7. The method of claim 6, further including triggering a bonus in response to collection of a predetermined number of the object during the series of plays.

9. The method of claim 1, wherein each play includes at least one respective random event that is independent of other plays in the series.

10. The method of claim 9, wherein the game includes the basic portion and a bonus feature triggered by a special outcome in the basic portion, the at least one random event being associated with the basic portion.

11. The method of claim 1, wherein each play includes at least one random event that is interdependent of one or more other plays in the series.

12. The method of claim 11, wherein the wagering game includes the basic portion and a bonus feature triggered by a special outcome in the basic portion, the at least one random event being associated with the bonus feature.

13. The method of claim 1, further including redeeming, prior to the completion of the series of plays, the accumulated game-play element for the second award in response to the predetermined criterion in the series of plays being met, and after the bonus is complete, returning to the series of plays of the basic portion of the wagering game until completion.

14. The method of claim 13, wherein the predetermined criterion corresponds to collection of a predetermined number of the accumulated game-play element.

15. The method of claim 13, wherein the predetermined criterion corresponds to a certain position of the element on a trail, ladder, or meter.

17. The method of claim 1, wherein the basic portion includes a slot game having a plurality of symbol-bearing reels that, during each play in the series, are spun and stopped to place symbols on the reels in visual association with a display area.

18. The method of claim 1, wherein the basic portion includes a draw poker game having a plurality of playing cards that, during each play in the series, are dealt from a deck and selectively replaced with substitute cards from the deck.

25. A gaming machine for conducting a wagering game comprising:  
means for receiving a single wager from a player to purchase a series of plays of a basic portion of the game, the series of plays comprising a fixed number of plays of the wagering game, the single wager being allocated to the entire series of plays and not being associated with any specific one of the series of plays, the single wager being an amount made by any player such that different players pay the same amount;  
means, responsive to the single wager, for providing the player with the series of plays of the basic portion of the wagering game;  
means for randomly selecting at least one outcome from a plurality of outcomes for each play of the basic portion of the wagering game, the outcomes being indicated by symbol combinations displayed to the player, the plurality of outcomes including a plurality of different winning outcomes, the plurality of different winning outcomes providing a plurality of different payouts to the player in the basic portion of the wagering game; and  
an accumulation feature that accumulates an element of the game over a plurality of the plays in the series of plays of the basic portion of the wagering game, the accumulated element involving the symbol combinations that are indicative of the outcomes achieved in the basic portion of the game and the accumulated element not being related to the credit amount associated with the outcomes, the accumulation feature is reset to include no accumulated elements prior to each

purchased series of plays, the accumulation feature (i) permitting the player to play a bonus game before completing the series of plays of the basic portion of the wagering game in response to an accumulation of a predetermined number of accumulated elements and (ii) returning to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed.

26. The machine of claim 25, wherein the basic portion is selected from a group consisting of slots, poker, keno, bingo, blackjack, and roulette.
27. The machine of claim 26, wherein the accumulation feature is triggered by a special outcome in the basic portion.
28. The machine of claim 25, wherein the accumulated element is represented by a position on a trail, ladder, or meter.
29. The machine of claim 28, wherein the position identifies a credit amount, a multiplier, a number of free plays of the basic portion, a bonus round, or movement to another position on the trail, the ladder, or the meter.
30. The machine of claim 25, wherein the accumulated element is a collected object.
31. The machine of claim 30, further including means for triggering the bonus game in response to collection of a predetermined number of the object during the series of plays.
33. The machine of claim 25, wherein each play includes at least one respective random event that is independent of other plays in the series.
35. The machine of claim 25, wherein each play includes at least one random event that is interdependent of one or more other plays in the series.

37. The machine of claim 25, further including means for redeeming the accumulated element for the bonus game in response to a predetermined event in the game.

38. The machine of claim 37, wherein the predetermined event corresponds to collection of a predetermined number of the element.

39. The machine of claim 37, wherein the predetermined event corresponds to a certain position of the element on a trail, ladder, or meter.

41. The machine of claim 25, wherein the basic portion includes a slot game having a plurality of symbol-bearing reels that, during each play in the series, are spun and stopped to place symbols on the reels in visual association with a display area.

42. The machine of claim 25, wherein the basic portion includes a draw poker game having a plurality of playing cards that, during each play in the series, are dealt from a deck and selectively replaced with substitute cards from the deck.

43. The method of claim 1, further including  
redeeming the accumulated game-play element for a bonus event in response to a predetermined criterion before completing the series of plays;  
playing the bonus event; and  
continuing the series of plays.

44. The method of claim 43, wherein the predetermined criterion corresponds to collection of a predetermined number of the accumulated element.

45. The method of claim 1, wherein the accumulated game-play element is a number of consecutive winning symbol combinations achieved in the basic game, the second award being a credit amount corresponding to the number of consecutive winning symbol combinations.

46. The method of claim 1, wherein the accumulated game-play element is a total value of credits being awarded as the first awards to the player for outcomes achieved in the basic game

when a randomly appearing hold-bonus symbol is present during the outcomes that resulted in the first awards in the basic game, the second award being a credit amount related to the total value of credits achieved when the randomly appearing hold-bonus symbol is present during the series of plays.

47. The method of claim 1, wherein the accumulated game-play element is a number of occurrences of a certain winning symbol combination achieved in the basic game, the second award being an enhancement of a credit amount corresponding to the certain winning symbol combination, the enhancement corresponding to the number of the certain winning symbol combination that has previously occurred during the series of plays.

48. A method of conducting a wagering game on a gaming machine, the method comprising:  
receiving a single wager from a player to purchase a series of plays of a basic portion of the game, the series of plays comprising a fixed number of plays of the wagering game, the single wager being allocated to the entire series of plays and not being associated with any specific one of the series of plays;

in response to the single wager, providing the player with the series of plays of the basic portion of the wagering game;

randomly generating at least one outcome of each play in the series of plays of the basic portion of the wagering game, the outcomes being indicated by symbol combinations developed from a plurality of individual symbols on a display;

awarding a first basic-game award to the player for a first winning outcome indicated by a winning symbol combination in any one of the series of plays;

awarding a second basic-game award to the player for a second winning outcome indicated by a winning symbol combination in another one of the series of plays, the second basic-game award being different from the first basic-game award;

accumulating a game-play element in an accumulation feature during the plurality of the plays in the series of plays of the basic portion of the wagering game, the accumulated game-play element being associated with the symbol combinations that are displayed during the series of plays of the basic portion of the wagering game, the accumulated game-play element not being associated with a credit value corresponding to winning symbol combinations achieved by the player;

awarding an accumulation-feature award to the player for the accumulation feature in response to a predetermined criterion being met for the accumulated game-play element; and

resetting the accumulation feature to include no accumulated game-play elements prior to the next purchased series of plays.

49. The method of claim 48, wherein the awarding of the accumulation-feature award occurs in a separate bonus game that is displayed to the player.

50. The method of claim 48, wherein the accumulation feature includes a second game-play element that can be accumulated and further including,

accumulating the second game-play element during the series of plays of the basic portion of the wagering game, and

awarding another award to the player in response to another predetermined criterion being met for the second accumulated game-play element.

51. A method of conducting a wagering game on a gaming machine, the method comprising:  
receiving a single wager from a player to purchase a series of plays of a basic portion of the game, the series of plays comprising a fixed number of plays of the wagering game, the single wager being allocated to the entire series of plays and not being associated with any specific one of the series of plays, the single wager being an amount made by any player such that different players pay the same amount;

in response to the single wager, providing the player with the series of plays of the basic portion of the wagering game, the wagering game including a plurality of outcomes, the plurality of outcomes including a plurality of winning outcomes corresponding to first awards to be awarded to the player, the plurality of winning outcomes including different winning outcomes having corresponding different ones of the first awards;

randomly generating at least one outcome of each play in the series of plays of the basic portion of the wagering game, the outcomes being indicated by symbol combinations developed from a plurality of individual symbols on a display;

accumulating an element in an accumulation feature during the plurality of the plays in the series of plays of the basic portion of the wagering game, the accumulated game-play element involving the symbol combinations that are displayed during the series of plays of the

basic portion of the wagering game, the accumulated game-play element not being related to the credit amount associated with the winning symbol combinations achieved by the player;

before completing the series of plays of the basic portion of wagering game, permitting the player to play a bonus game in response to a predetermined criterion being met for the accumulated element;

after completion of the bonus game, returning to the basic portion of the game to continue playing the series of plays associated with the single wager until the fixed number of plays have been completed; and

resetting the accumulation feature to include no accumulated game-play elements prior to the next purchased series of plays.

52. The method of claim 51, further including awarding first awards for winning outcomes in the basic portion of the game and awarding an additional bonus award associated with the bonus game.

# EVIDENCE APPENDIX

## **RELATED PROCEEDINGS APPENDIX**

None. There are no related proceedings